

US EPA RECORDS CENTER REGION 5



396422

FEB 04 1992

HSM-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ashland Chemical
6428 Joliet Road
Countryside, IL 60525

Re: Request for Information Pursuant to Section 104(e) of CERCLA and Section 3007 RCRA, for **Gary Development Landfill**, 479 N. Cline, Gary, IN hereinafter referred to as "the Site".

Dear Sir or Madam:

The United States Environmental Protection Agency (U.S. EPA) is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants on or about the **Gary Development Landfill**. This investigation requires inquiry into the generation, storage, treatment and disposal of such substances that have been or threaten to be released at the Site. U.S. EPA is also investigating the ability of persons connected with the Site to pay for or perform a clean-up of the Site.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9604(e), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, and pursuant to Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6927, you are hereby requested to respond to the Information Requests enclosed. Compliance with the enclosed Information Requests is mandatory. Failure to respond fully and truthfully to each and every Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by U.S. EPA pursuant to Section 3008 of RCRA under which U.S. EPA may seek the imposition of penalties of up to twenty-five thousand dollars (\$25,000) for each day of continued non-compliance, and/or pursuant to Section 104(e)(5) of CERCLA which, as amended, authorizes the United States to seek penalties from a Federal court of up to \$25,000 for each day of continued non-compliance.

"Non-compliance" is considered by U.S. EPA to be not only failure to respond to the Requests but also failure to respond completely and truthfully to each Request. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties of up to ten thousand dollars (\$10,000) or up to five (5) years of imprisonment or both under 18 U.S.C. 1001.

The United States Environmental Protection Agency has the authority to use the information requested herein in an administrative, civil or criminal action. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may request, however, that such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by the U.S. EPA. Information claimed as confidential will be handled in accordance with the provisions of 40 C.F.R. Part 2.

Your response to this Information Request should be mailed to:

Joseph A. Kaweck
Superfund Program Management Branch (HSM-5J)
U.S. Environmental Protection Agency
77 West Jackson Street
Chicago, Illinois 60604

If you have any legal questions, please direct such questions to John Tielsch, at (312)-353-7447. If you have any other questions, please direct such questions to Mr. Kaweck, at (312) 353-9483.

Thank you for your cooperation in this matter. To ensure expeditious treatment of your response, please send it to the above address.

Sincerely,

Thomas W. Mateer, Acting Chief
Superfund Program Management Branch

Enclosure

bcc: John Tielsh, ORC
Fred Micke, RERB
D. Sheppard, HMS-5J

FIRST SET OF INFORMATION REQUESTS
INSTRUCTIONS

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information is not known or is not available to the Respondent as of the date of submission of his/her response, should information later become known by or available to the Respondent, Respondent must supplement his/her response to U.S. EPA. Moreover, should the Respondent find, at any time after the submission of his/her response that any portion of the submitted information is false or misrepresents the truth, Respondent must notify U.S. EPA thereof as soon as possible.
5. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
6. You must respond to the Information Requests on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you,

regardless of whether or not it is based on personal knowledge, and regardless of source.

7. Your response should be accompanied by a notarized affidavit from a responsible company official or representative stating that a diligent record search has been completed and that there has been a diligent interviewing process with present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, releases, spills, disposal or other handling practices of the Respondent between 1974 and 1991. To the extent that any information you provide relating to these Requests is based on your personal knowledge, or the personal knowledge of your employees, agents, or other representatives, this information shall be in the form of a notarized affidavit.
8. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.
9. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the

information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36901 et seq. (September 1, 1976); 43 Federal Register 4000 et. seq. (September 8, 1978); 50 Federal Register 51654 et.seq. (December 18, 1985).] If no such claim accompanies the information when it is received by the U.S. EPA, it may be made available to the public by the U.S. EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA.

10. U.S. EPA has the authority to use the information requested herein in an administrative civil or criminal action.

Definitions

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, predecessors, partners, successors, assigns, subsidiaries and agents.

2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. "The Site" or "the Facility" shall mean and include the property on or about the Gary Development Landfill that is bounded by the Grand Calumet River in Lake County, IN.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances including petroleum products.
5. The term, "pollutant" or "contaminant", shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
6. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
7. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
8. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to all hazardous substances, pollutants and

contaminant, hazardous wastes, solid wastes, as defined above.

9. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
10. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.
11. The terms, "furnish", "describe", or "identify" or "indicate", shall mean turning over to U.S. EPA either original or duplicate copies of the requested information in the possession, custody, or control of the Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control then indicate where such information or documents may be obtained.
12. The term "identify" means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
13. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its

full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.

14. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
15. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
16. "Transaction" or "Transact" means every separate act, deal, instance, occurrence, sale, transfer, giving, delivery, change in ownership, or change in possession.
17. As used herein, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin,

circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, video tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.

18. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these information requests any information which might otherwise be construed to be outside their scope.
19. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

Generator Questions

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referral to in the preparation of the answers to these Requests and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Requests or who may be able to provide additional responsive documents, identify such persons.
4. List the EPA Identification Numbers of the Respondent.
5. Identify the acts or omissions of any person, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom.
6. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of material sent to the Site.
7. Identify all persons, including yourself, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of waste materials, including hazardous substances, at the Site. In addition, identify the following:
 - a) The persons with whom you or such other persons made such arrangements;
 - b) Every date on which such arrangements took place;

- c) For each transaction, the nature of the waste material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;
- d) The owner of the waste materials or hazardous substances so accepted or transported;
- e) The quantity of the waste materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
- f) All tests, analyses, and analytical results concerning the waste materials;
- g) The persons(s) who selected the Site as the place to which the waste materials or hazardous substances were to be transported;
- h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;
- i) Where the person identified in g., above, intended to have such hazardous substances or waste materials transported and all evidence of this intent;
- j) Whether the waste materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;
- k) What was actually done to the waste materials or hazardous substances once they were brought to the Site;
- l) The final disposition of each of the waste materials or hazardous substances involved in such transactions;
- m) The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the waste material and hazardous substance involved in each transaction.
- n) The type and number of containers in which the waste materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the Site, and all markings on such containers;

- o) The price paid for (i) transport (ii) disposal or (iii) both of each waste material and hazardous substance.
- p) All documents containing information responsive to a - o above or in lieu of identification of all relevant documents, provide copies of all such documents.
- q) All persons with knowledge, information, or documents responsive to a - p above.

8. Identify all liability insurance policies held by Respondent

from 1974 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

9. Provide copies of all income tax returns sent to the Federal Internal Revenue Service in the last three years.

10. If Respondent is a Corporation, respond to the following requests:

- a) Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to those filed with the Internal Revenue Service.
- c) Identify all of Respondent's current assets and liabilities and the person who currently own or are responsible for such assets and liabilities.

11. If Respondent is a Partnership, provide copies of the Partnership Agreement.
12. If Respondent is a Trust, provide all relevant agreements and documents to support this claim.